



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

**FOR IMMEDIATE RELEASE: August 2, 2006**

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### **KROLL SENDS "MUZZLE" LETTER TO CITY OVER \$20 MILLION REPORT, AGUIRRE DENOUNCES IT AS AN AFFRONT TO TAXPAYERS**

**San Diego, CA:** Kroll, Inc., and Willkie Farr & Gallagher LLP, calling themselves the City's Audit Committee, has sent a letter that City Attorney Michael Aguirre considers an improper attempt to dictate the questions that can be asked about its \$20 million investigative report on the City's financial disclosure practices and the 1996 and 2002 underfunding of the pension system. The Report, which has been described by the media as 300-plus pages, will be presented to the City Council on Tuesday, August 8, at 8 a.m., Council Chambers.

"I was elected City-wide to represent the people, the taxpayers of San Diego, and I find it offensive and highly improper for a private company to dictate what questions they will, or will not be asked," said City Attorney Aguirre. "The taxpayers have paid Kroll \$20 million for its investigative report. They work for us. If our representatives want to ask questions about the findings and its implications, this should be welcomed, not limited."

The July 31 letter was sent to Mayor Jerry Sanders and Council President Scott Peters from Kroll's legal counsel, Benito Romano with Willkie Farr, dictating the terms of their presentation and stating that Kroll will "confine its remarks to the content of the Report, and will not respond to any other questions at that time." The letter then asked Sanders and Peters to countersign and return it, indicating agreement and consent. Both elected officials signed the document.

In response to the correspondence, Aguirre immediately faxed a letter to Mr. Romano, requesting that detailed billing documents be brought to the presentation and outlining the following points:

- 1) An 8:00 a.m. meeting is unusually early for a Council meeting, and limiting the time of the appearance for questions is unprecedented. Neither is acceptable.
- 2) Kroll and Willkie Farr's presentation at the 8 August 2006 meeting of the City Council has not properly been noticed. This raises questions about a potential Brown Act violation.

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3) Your presence is necessary until Mayor Jerry Sanders, the City Attorney, and representatives of the City Council feel that their questions have been answered sufficiently. This request is by no means unreasonable considering the approximately \$20 million the City of San Diego has paid for the completion of the report.

4) It is wholly inappropriate for representatives of Kroll and Willkie Farr to discuss any of the report, its contents or its presentation with Council Member Peters, who was a subject of the investigation, outside of the presence of the Council. The scheduling should have been conducted through the office of Deputy Mayor Tony Young, who was not an elected member of the San Diego City Council at the time that alleged illegal acts took place.

5) This letter is also to inform you that upon presentation of the report, representatives of Kroll and Willkie Farr will be expected to answer questions about the scope of the investigation, accounting and investigative processes used during the investigation, and billing practices by Kroll and Willkie Farr throughout the investigation.

In a joint news conference this morning with Councilmember Donna Frye, Aguirre said, "Council President Peters has no authority to sign or consent to this restriction by Kroll." Council member Frye confirmed that she had no knowledge of the July 31 letter which limits Council discussion and, as an elected official, obstructs her fiduciary duty to perform her work on behalf of the taxpayers.

Kroll, Inc. is a risk management firm hired by the City of San Diego in February 2005 to analyze conflicting pension investigative reports by the law firm of Vinson & Elkins and the San Diego City Attorney. Since that time, Kroll expanded its investigation without authority and missed stated deadlines for completion of its work. Kroll's actions were formally criticized in the City Attorney's *Interim Report #8 on Kroll's Breach of Duties Owed to the City of San Diego* and strongly denounced by San Diego Mayor Jerry Sanders in a statement on July 11 to the City Council that characterized the actions of Kroll as "holding the city hostage."

In July 2006, Aguirre initiated an investigation into Kroll, Inc. for alleged violations of the State of California's False Claims Act (Government Code Section 12652 (b)(1) which prohibits the knowing presentation to the City of a false claim for payment or approval. Kroll has refused to present the City with itemized bills for its work product.

The \$1.4 billion employee pension debt is the result of agreements between the San Diego City Council and the San Diego City Employees' Retirement System (SDCERS) Board in 1996 and 2002 that allowed the City of San Diego to pay less than what was required to fully fund the pension obligations in exchange for granting increased benefits to City and Union employees.

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